

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

<b>WALTER JAMAR AVERY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 3:05-cv-631-MEF-CSC</b>
	)	
<b>LEE COUNTY DETENTION</b>	)	
<b>FACILITY, et al.</b>	)	
	)	
<b>Defendants.</b>	)	

**AFFIDAVIT OF CARY TORBERT, JR.**

**STATE OF ALABAMA**            )  
  )  
**COUNTY OF LEE**                )

**BEFORE ME**, the undersigned authority and Notary Public in and for said County and State at large, personally appeared CARY TORBERT, JR., who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Cary Torbert, Jr. I am over the age of nineteen and competent to execute this affidavit. I serve as Chief Deputy of Corrections of the Lee County Detention Facility and have obtained the rank of Major. I have worked with the Lee County Sheriff's Department for over 32 years.


2. I am familiar with the Plaintiff, Walter Avery, due to his incarceration in the Lee County Detention Facility. I am not, however, personally familiar with the allegations made the basis of the Plaintiff's Complaint as I have never received from him any complaint, any written or verbal request to discuss the claims he now makes nor any grievance concerning his sentence or the length of his sentence. Had I received any request from him or a grievance concerning these matters I would have investigated the matter and responded to the request and/or grievance accordingly. Had any request form or grievance been submitted by the Plaintiff to me it would have been placed in his

however, there are no requests or grievances filed by the Plaintiff concerning any of the matters made the basis of his Complaint.

3. Internal grievance procedures at the Lee County Detention Facility are available to all inmates. It is the policy of the Lee County Sheriff's Department that inmates are permitted to submit grievances and that each grievance will be acted upon. The inmates are given an Inmate Grievance Form to complete and return to a Lee County Detention Facility staff member for any grievances they may have. At no time, however, did the Plaintiff file any grievances concerning any of the claims made in his Complaint. Had such a grievance been filed, it would have been acted upon accordingly, (that is, whether an investigation was needed or simply a response made to the complaints). Further, never did I receive any written request form from the Plaintiff concerning any of these matters. Had the Plaintiff made a request concerning these matters there also would have been a response made to such complaints on the written request form. No such request can be found in the Plaintiff's inmate file.

4. All documents attached to the Special Report are true and accurate copies of jail documents kept by me in the ordinary course of my business. I am the custodian of these records.

5. I swear, to the best of my present knowledge, information, and belief, that the above statements are true, that I am competent to make this affidavit and that the above statements were made by drawing from my personal knowledge of the situation.

  
Carl Torbert, Jr.

SWORN TO and SUBSCRIBED before me this 4 day of October, 2005.

  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

COMMISSION EXPIRES FEB. 10, 2007